

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THOMAS NESBITT,)	
)	
Plaintiff,)	4:72cv12
)	
vs.)	ORDER
)	
CHARLES WOLFF, JR.,)	
)	
Defendant.)	

This matter is before the court on filing no. 197, the "Plaintiff's Objections to and Reconsideration of Court's 5/16/05 Memorandum and Order with Request for Telephonic Hearing" filed by the plaintiff, Thomas Nesbitt, a prisoner in the custody of the Nebraska Department of Correctional Services ("DCS"). The plaintiff asserts reasons why the \$255 appellate filing fee should not have been assessed by the Eighth Circuit Court of Appeals in connection with Mr. Nesbitt's appeal in this case. However, in filing no. 191 dated January 14, 2005, the Eighth Circuit assessed the fee, and in filing no. 194, the Eighth Circuit stated: "Appellant Nesbitt's two motions to reconsider the assessment of the court's filing fee in the judgment of January 14, 2005, have been considered by the court and are denied."

When the Eighth Circuit remanded the above-entitled case for collection of Mr. Nesbitt's appellate filing fee, this court issued filing no. 196, the Memorandum and Order of May 16, 2005 to which the plaintiff objects. However, a federal circuit court of appeals is a higher court than a federal district court, and this court is bound by the decisions of the Eighth Circuit Court of Appeals. Therefore, filing no. 197 must be, and hereby is, denied.

SO ORDERED.

DATED this 1st day of June, 2005.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge